

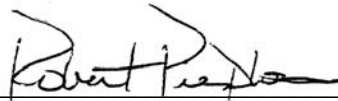


Construction Program Procedure Bulletin

CPB 02-03 Expanded Use of Dispute Review Boards

References: Standard Special Provisions, S5-171, "Dispute Review Board" and S5-170, "Dispute Review Board"
Construction Program Procedure Bulletin, CPB 02-1 Dispute Review Board Process and Responsibilities

Effective Date: October 15, 2002

Approved: 
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Approval Date: October 2, 2002

Background

Dispute Review Boards (DRBs) have been utilized by Caltrans and the construction industry to aid in timely resolution of contract disputes by providing objective non-binding recommendations on the merit of dispute issues.

Caltrans recent use of mandatory DRBs has been typically limited to contracts with an engineer's estimate greater than \$10 million and at least 200 working days. These criteria were established, in part, to utilize DRBs on larger and more complex projects where the effectiveness of DRBs would be more pronounced.

Recently Caltrans and segments of the construction industry have recognized the opportunity to expand the use of DRBs to a greater number of contracts. This expansion will be accomplished by continuing to use mandatory DRBs on the aforementioned contracts and employing optional DRBs on contracts with an engineer's estimate greater than \$5 million and at least 150 working days that do not meet the mandatory DRB usage criteria.

Existing Process

The mandatory DRB process has been documented in CPB 02-1.

New Process

Mandatory DRBs:

There are no significant changes to the mandatory DRB process as presented previously in CPB 02-1.

Optional DRBs:

Optional DRBs will conform to the same requirements as mandatory DRBs with the following important distinctions.

On contracts with the optional DRB specification, the contractor's actions will dictate whether or not a DRB is established for the contract. In accordance with the optional DRB specification, a DRB will not be established for the contract when:

1. The contractor, within 45 days of contract approval, submits a written statement to the engineer indicating the contractor's unwillingness to participate in a DRB and outlines the reasons therefor;
2. The contractor, within 45 days of contract approval, fails to take action for establishment of the DRB as provided in the contract; or
3. A DRB has not been established within 45 days of approval of the contract.

To avoid disputes that Caltrans may have contributed to the DRB not being established, the resident engineer needs to be proactive in establishing a DRB. At the preconstruction conference the resident engineer is to remind the contractor that Caltrans supports the DRB process and is committed to its timely establishment upon receiving the contractor's initial notice that a DRB is desired.

If an optional DRB is not established, the DRB process will not be prerequisite to the contractor's right to pursue claims (exceptions to the proposed final estimate) and arbitration. In addition, there are no administrative deductions to be taken for not establishing an optional DRB.

Once an optional DRB has been established, it shall operate until contract acceptance. Unlike Caltrans previous optional DRB Standard Special Provision, neither the contractor nor Caltrans may terminate an optional DRB once established.